

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

CHARLES ROBINS,

Petitioner,

vs.

ROBERT BAYER, *et al.*,

Respondents.

2:99-cv-00412-LRH-PAL

ORDER

In an order entered on March 14, 2005, the court stayed this capital habeas corpus action, pending petitioner's exhaustion of claims in state court (docket #106). On June 19, 2009, petitioner filed a motion to vacate the stay (docket #125), informing the court that the state-court proceedings were concluded. On June 23, 2009, the court granted the motion to vacate the stay, lifted the stay, and set a status conference (docket #126).

The status conference was held on July 6, 2009. Petitioner and respondents were represented by counsel at the conference. The court heard from counsel with respect to the schedule for further proceedings in this action.

In light of the representations of the parties at the status conference, and pursuant to Federal Rule of Civil Procedure 16(b), the Rules Governing Section 2254 Cases in the United States District

1 Courts, and Local Rule 16-1, the court enters this scheduling order, and sets a schedule for further
2 proceedings in this action, as follows:

3 1. **Third Amended Petition.** Petitioner shall have **60 days** from the date of entry of
4 this order to file and serve a Third Amended Petition for Writ of Habeas Corpus. This deadline will
5 not be extended absent extraordinary circumstances.

6 2. **Response to Petition.** Respondents shall have **60 days**, following service of
7 petitioner's third amended petition, to file and serve an answer or other response to petitioner's third
8 amended petition.

9 3. **Reply and Response to Reply.** Petitioner shall have **45 days**, following service of
10 an answer, to file and serve a reply. Respondents shall thereafter have **30 days**, following service of
11 a reply, to file and serve a response to the reply.

12 4. **Briefing of Motion to Dismiss.** If respondents file a motion to dismiss, petitioner
13 shall have **30 days**, following service of the motion, to file and serve a response to the motion.
14 Respondents shall thereafter have **30 days**, following service of the response to the motion, to file
15 and serve a reply.

16 5. **Discovery.** If petitioner wishes to move for leave to conduct discovery, petitioner
17 shall file and serve such motion concurrently with, but separate from, the response to respondents'
18 motion to dismiss or the reply to respondents' answer. Any motion for leave to conduct discovery
19 filed by petitioner before that time may be considered premature, and may be denied, without
20 prejudice, on that basis. Respondents shall file and serve a response to any such motion concurrently
21 with, but separate from, their reply in support of their motion to dismiss or their response to
22 petitioner's reply. Thereafter, petitioner shall have 20 days, following service of the response to the
23 motion for leave to conduct discovery, to file and serve a reply in support of the motion. If the court
24 grants petitioner leave to conduct discovery, the court will then establish time limits for the
25 completion of the authorized discovery.
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1 6. **Evidentiary Hearing.** If petitioner wishes to request an evidentiary hearing,
2 petitioner shall file and serve a motion for an evidentiary hearing concurrently with, but separate
3 from, the response to respondents' motion to dismiss or the reply to respondents' answer. Any
4 motion for an evidentiary hearing filed by petitioner before that time may be considered premature,
5 and may be denied, without prejudice, on that basis. The motion for an evidentiary hearing must
6 specifically address why an evidentiary hearing is required, and must meet the requirements of
7 28 U.S.C. § 2254(e). The motion must state whether an evidentiary hearing was held in state court,
8 and, if so, state where the transcript is located in the record. If petitioner files a motion for an
9 evidentiary hearing, respondents shall file and serve a response to that motion concurrently with, but
10 separate from, their reply in support of their motion to dismiss or their response to petitioner's reply.
11 Thereafter, petitioner shall have twenty 20 days, following service of the response to the motion for
12 an evidentiary hearing, to file and serve a reply in support of the motion.

13 7. **Status Reports and Status Conferences.** The court may from time to time, as the
14 need arises, schedule status conferences, and/or require the filing and service of status reports, in
15 order to manage the progress of this action.

16 Dated this 6th day of July, 2009.



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19 LARRY R. HICKS
UNITED STATES DISTRICT JUDGE
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